



Appeal Decision

Hearing held on 15 October 2024

Site visit made on 15 October 2024

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th of October 2024

Appeal Ref: APP/R3650/W/24/3346216

**Land Adjoining West Farm, Tongham Road, Runfold, Farnham, Surrey
GU10 1PJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr John Mitchell against the decision of Waverley Borough Council.
 - The application Ref is WA/2022/03025.
 - The development proposed is the erection of 2 three bedroom detached dwellings and two garages (attached at Plot 1, detached for Plot 2).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Shortly before the hearing, both parties realised that the appellant had included a strip of highway land within the red edged application site on the Location Plan which formed part of the planning application, and upon which the Council had made its decision. This meant the Highway Authority had not been notified by the appellant that a planning application, or subsequent appeal had been made on their land. There had been insufficient time before the hearing for such notification to take place.
3. At the hearing the appellant sought to rectify the matter by omitting the highway land from the red lined appeal site with a revised location plan, such that only land within his ownership was included. The omitted land comprised a narrow strip of land that follows the curved alignment of Tongham Road. A revised block plan was also submitted to reflect the amended red line. In addition, and unrelated to the 'red line' revision, a revised drawing was submitted pertaining to plot 2, showing a new window in the side elevation to serve bedroom 3.
4. Whilst the requested amendments would obviate the need to notify the Highway Authority as a landowner, they have other implications that arise from seeking to amend plans during the appeal procedure. The Council drew

my attention to the advice in the 'Procedural Guide: Planning appeals – England' and the tests established by case law that apply in these circumstances. This states that it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the Council and interested parties at the application stage. It goes on to outline the substantive and procedural tests established in case law.

5. The Council asserted that the revisions ought not to be accepted as they failed to meet those tests. However, they also contended there were problems with the validity of the planning application relating to the original plans because of the failure to notify the Highway Authority. Hence, this presented an unusual set of circumstances, whereby I have sought to ascertain what fairness requires.
6. In considering whether to accept the revised plans the first test is whether the proposed amendments would involve a substantial difference. On the face of it, a change to the red edge and extent of the appeal site would tend to suggest so. Nevertheless, in this case, upon closer examination of the original and revised block plans physical differences in the substance of the proposed development are almost indistinguishable. Although the appeal site is reduced in size, it relates to a marginal strip of land that did not feature meaningfully as part of the proposed development. Indeed, the position, form, grounds and configuration of the dwellings, access and wider site are similar, with the highway verge in question shown as peripheral 'white land' in both instances.
7. The additional bedroom window in Plot 2 relates to a first floor side elevation which would face towards the proposed detached garage. It would be set in some distance from the boundary with West Farm Cottage and is not oriented towards any existing residential property.
8. Accordingly, I am satisfied that when considered cumulatively, the requested changes would not result in a substantial difference and find that the proposal is essentially the same.
9. The second test is procedural, namely whether the proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal. In forming a view on this I have paid close attention to the number and nature of comments received from interested parties and consultees to the original planning application and appeal. There were only two representations from interested parties, both made in support, and neither referred directly to the strip of land in question. Amongst the comments from statutory consultees, the Highway Authority raised no objection. The brief comments from Farnham Town Council note differences between the appeal proposal and earlier applications but do not conclude on the merits of the proposal. Hence, they are neutral in nature.
10. No representations were received in direct response to the appeal notification and no interested parties or statutory consultees attended the hearing itself. Taken in combination with my findings in relation to the substantive test, I consider it very unlikely that anyone would be prejudiced if I were to make my determination based upon the revised plans submitted at the hearing. Accordingly, I have proceeded to make my determination in relation to the amended plans. It follows that as the revisions would address

concerns raised regarding validity, there is no need to consider that matter further.

11. Refusal reason 2 on the Council's decision notice indicates that the proposal did not adequately demonstrate how it would address climate change in respect of sustainable construction methods and on-site biodiversity. However, the Council confirmed that updates to ecology information and the provision of a sustainability checklist as part of the appellant's appeal submission, together with the use of planning conditions, would surmount their concerns.
12. Refusal reason 3 refers to insufficient provision of measures to avoid a significant effect on the integrity of the Thames Basin Heaths Special Protection Area (SPA). A Unilateral Undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990 dated 14 October 2024 was provided at the hearing. It contains obligations for financial contributions towards strategic mitigation at the SPA, namely £2120.95 towards strategic access, management and monitoring (SAMB) and £6254.64 towards the provision of suitable alternative natural greenspace (SANG) at Farnham Park. The sums would be paid prior to the commencement of the development in the event of an approval. At the hearing, the Council confirmed that the UU satisfactorily addressed their concerns in relation to the SPA.
13. Therefore, as agreed by the main parties, these matters are no longer in dispute, and consequently, refusal reasons 2 and 3 on the Council's decision notice fall away.

Main Issues

14. Considering the above, the main issues are:
 - The effect of the proposal on the character and appearance of the area, having regard to the significance and special interest of West Farmhouse and Barn, Grade II listed buildings, landscape character and trees; and,
 - If harm arises, whether this is outweighed by other material considerations.

Reasons

Character and appearance

15. There are two Grade II listed buildings nearby, that lie north-east of the appeal site. Firstly, West Farmhouse is a timber framed vernacular farmhouse thought to date from the 16-17th centuries, or earlier. The structure features, amongst other things, brick cladding and a very steeply pitched old tile half-hipped roof. There is evidence of 18th and 19th century additions to the farmhouse. The farmhouse sits forward of a collection of mostly traditional agricultural buildings configured in a somewhat loose courtyard arrangement.
16. One of the buildings to the south of the farmhouse is the second listed building and comprises a timber framed barn. Dating from the 17th century or earlier, it is a substantial 5 bay building with a broadly rectangular

footprint and simple form. It has timber weatherboard cladding and a clay tiled roof. Although the barn now forms part of a bed and breakfast use, my observations were that it remains unmistakably agricultural in appearance.

17. The special interest and significance of both listed buildings primarily derives from their architectural and aesthetic interest as good examples of a vernacular farmhouse and barn respectively. It comes from their distinctive form, traditional construction, and prevalent use of local materials. However, in addition, they hold notable historic interest as surviving tangible evidence of a traditional farmstead. On that basis, they help tell a story about the agricultural past. This interest includes the historic fabric embodied within the buildings themselves but also extends wider to their setting.
18. The immediate farmstead/courtyard arrangement is an important component of the setting as their configuration provides strong clues as to how the buildings functioned as part of an agricultural operation relative to each other. Wider still, elements of the nearby rural landscape within which the former farmstead sits, give greater insight into how former occupants of the listed buildings would probably have used them in conjunction with the land they worked. Moreover, the proximity of undeveloped land gives emphasis to the importance of land and agriculture as part of a traditional rural way of life.
19. The historic mapping provided shows that the West Farm buildings have evolved and grown over time. Moreover, there have been changes within the landscape, the most dramatic being the arrival of first rail, and then main road infrastructure. Today the physical presence and traffic noise from the A31 is a forceful component of the setting which distracts attention from the historic significance of the listed buildings. Both parties agreed it was a negative aspect of the setting and I concur.
20. Nevertheless, my observations were that otherwise, the nearby landscape comprised mostly of small fields, paddocks, hedgerows and trees with scattered clusters of buildings. Hence, natural features and vegetation prevail over the limited presence of built form. Combined with the limited width and informal appearance of Tongham Road, the overriding character and appearance of the area is rural.
21. I have a statutory duty under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving listed buildings, including their settings.
22. The appeal site is an area of largely undeveloped land comprising mostly of rough grass and forms part of a wider field. There is some boundary hedgerow growth, and an oak tree stands within the site. Despite the stark appearance of timber close boarded fencing along parts of the boundary, due to the presence of vegetation and absence of built form, the primary impression of the appeal site is agricultural, with a spacious appearance and strong countryside character. Moreover, although the oak tree has undergone recent severe pruning, much of the remaining balanced crown can be seen from Tongham Road. These factors contribute positively to the verdant rural qualities of the area.

23. Consequently, the appeal site forms part of the rural landscape near to the listed buildings. The evidence presented indicates that the appeal site once formed part of a field closely associated with West Farm. Although now in separate ownership, with an intervening treed boundary, I was nevertheless, able to see the outline of the upper parts of the listed farmhouse from the appeal land. I could also glimpse parts of the listed barn through gaps in the boundary trees. As such, the presence of the historic grouping of buildings at West Farm was discernible from the appeal site.
24. I appreciate that the extent of visibility will differ with seasonal variations in the foliage of the boundary trees. Nevertheless, the proximity of the appeal site to the listed buildings (which is contiguous with the remainder of the field directly adjacent), combined with its agricultural appearance, give rise to an intuitive understanding that it was closely associated with the historic farmstead. Having regard to the physical factors on the ground, I cannot agree that the historical connection has been completely severed. Rather, the likely functional relationship between the land and the listed buildings can still be appreciated to an extent.
25. Moreover, the agricultural and rural qualities of the appeal site enhance the setting of both listed buildings. In turn, this promotes an appreciation of their probable close relationship with the landscape and thereby contributes to their historic significance as heritage assets. My finding in this respect is generally consistent with, and reinforced by, those of two Inspectors in earlier appeal decisions¹ concerning the appeal land.
26. The proposal would subdivide the existing larger field and would create two residential plots. Two sizeable, detached dwellings would be introduced onto the land, which is in part defined by an absence of built form. It would also provide a notable area of driveway leading from Tongham Road. The substantive volume and massing of the structures, and presence of hardstanding would adversely erode the undeveloped character and sense of spaciousness.
27. Both dwellings would have grounds likely to have boundary treatments, planting and outdoor paraphernalia consistent with a domestic use. The associated activity, parked vehicles and lighting (internal and some probable external) would also signal a domestic use. Therefore, even using a design concept intended to be evocative of agricultural buildings, the appearance and character of the site would be undeniably domestic. Taking these factors together, the proposal would detrimentally alter and undermine the rural attributes of the land. Whilst it was clear that the appellant had thought carefully about the design approach, my concern is of a fundamental nature, and so, whilst design measures may go some way to reducing the degree of harm, it would not negate it altogether.
28. The dwellings would occupy a considerable extent of the southern part of the appeal land, such that built form would be dispersed across most of its width. Plot 1 would sit close to the boundary with the highway on its western edge and would be elevated relative to Tongham Road. As such, upper parts of the house would be visible from the road and would feature in the foreground on the approach to the listed buildings from the south. This

¹ Appeal references: APP/R3650/W/19/3230324 & APP/R3650/W/22/3304609

would contrast harmfully with the existing spacious gap that separates West Farm Cottage and the listed buildings. The proximity of the proposed dwellings to West Farm Cottage would increase the built-up area contrary to the essential rural qualities I have identified. Hence, it would be a retrograde step within the setting of the listed buildings.

29. At the hearing, it was put to me that land to the south and east of the listed buildings contributed to their setting, whereas the appeal site had only a neutral impact on their significance. For the reasons outlined above, I cannot agree. My observations were that land to the south, east and west (including the appeal site) all made a valuable contribution. Moreover, given that negative elements already exist within the setting, it becomes more important to conserve those aspects that contribute positively.
30. In addition, recent approved developments in the vicinity of the listed buildings were highlighted by the appellant. I observed a replacement agricultural building and garage at my site visit. However, the nature and scale of those developments are quite different in scale and nature from the appeal proposal, and so are not directly comparable. Hence, their presence would not lead me to a different view on the merits of the appeal scheme.
31. Accordingly, the development would erode positive rural qualities that form part of the setting to the listed buildings, and thereby would be detrimental to a component of their special interest and significance. Consequently, the proposal would run counter to the expectations of the Act. In the terms of the National Planning Policy Framework (the Framework), cognisant that only part of the setting of the listed buildings would be affected, the degree of harm to their overall significance as designated heritage assets would be less than substantial in each case.
32. Paragraph 208 of the Framework states that in these circumstances the harm should be weighed against the public benefits of the proposal. Paragraph 205 confirms that when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
33. The principal public benefit arising from the scheme would be the provision of two additional dwellings towards the overall housing supply in an area where there is considerable unmet need. Furthermore, some economic activity would be associated with construction. Environmental benefits would be likely to accrue from ecological enhancement derived from the intended biodiversity improvements. The removal of the close boarded boundary fence adjacent to Tongham Road would be visually beneficial. Additional surveillance from the presence of the dwellings may also lead to a reduction in anti-social activity in the immediate vicinity.
34. Nevertheless, the extent of the cumulative public benefits arising from the two dwellings would be insufficient to outweigh the great weight attributed to the less than substantial harm caused to each listed building. Conflict therefore arises with the historic environment protection policies in the Framework.
35. In addition, paragraph 180 of the Framework stipulates that planning decisions should contribute to and enhance the natural and local

environment by, amongst other things, recognising the intrinsic character and beauty of the countryside. The appeal site is located within the Hogs Back Ridge character area as defined in the Farnham Landscape Character Assessment. Key characteristics identified in that document include the predominant land use being pastoral fields which are small in scale, hedgerows, noise impact from the A31 and settlement being limited to occasional dwellings/farmsteads.

36. This resonates with my observations of the appeal site and immediate surroundings. The character area does not have any landscape designations denoting any heightened value, and so in that sense, it is ordinary. Nevertheless, it does not follow that it has no qualities worthy of protection. The positive attributes I have described above, result in attractive countryside, and the spacious and verdant qualities of the appeal site contribute positively towards that.
37. The additional built form and domestication of the appeal site would undermine and dilute the countryside character of the area. Moreover, the dwellings would noticeably intrude into the substantial gap in built form that separates West Farm Cottage from the historic farmstead at West Farm.
38. Furthermore, there was a consensus that the English oak tree (*Quercus robur*) remains a positive natural asset. When questioned, neither party was certain as to its age with the appellant suggesting it was about 15 years old. The species is generally long-lived and can grow to a substantial size. They also naturally tend to have a broadly spreading crown. Given the proximity that the Plot 1 dwelling would have to the tree, I am not assured that the proposed layout would ensure sufficient room for its future growth. This could be detrimental to the longevity of the specimen, and its ongoing recovery from recent pruning works. In any event, the presence of the Plot 1 dwelling would interfere with views of the oak tree from Tongham Road, whereby it would read as part of a domestic garden between houses, rather than a natural asset within an undeveloped field.
39. I have carefully considered the findings of the Inspector in the most recent appeal decision concerning the appeal site. She concluded in relation to that scheme for two dwellings that harm would not result to the intrinsic rural character and beauty of the countryside. However, the scheme before me is different in several respects. Firstly, the size of the Plot 2 dwelling is larger, and consequently, would result in greater coverage of built form across the site. Moreover, the Plot 1 dwelling would sit closer to Tongham Road. Cognisant of the revision to the red edge, only limited space would be available between the dwelling and boundary to the roadside. This would inhibit the planting of meaningful landscaping. Hence, the presence of built form would be more obvious from Tongham Road. Finally, the respective block plans show that built form would be closer to the oak tree.
40. These factors lead me to a different outcome. Hence, I find the development would erode the attractive rural qualities of the appeal site. Owing to the topography, I accept the proposal would be unlikely to affect long range views. Nevertheless, it would result in localised harm to the landscape, and I am not convinced that mitigating planting, including the provision of a wildflower meadow, would fully address my concerns.

41. Accordingly, I find the proposal would unacceptably affect the character and appearance of the area owing to localised harm to the rural landscape, including the oak tree. In addition, it would cause unjustified harm to two designated heritage assets. Therefore, the development would conflict with policies HA1, RE1, RE3 and TD1 of the Waverley Borough Local Plan Part 1, February 2018, policies DM4, DM11, DM15 and DM20 of the Waverley Borough Local Plan Part 2, March 2023 and policies FNP1 and FNP10 of the Farnham Neighbourhood Plan 2013-2032. Amongst other things, when read together, these policies seek to protect and reinforce the character and local distinctiveness of the surrounding area, including important trees, and conserve or enhance the significance of heritage assets.

Other considerations

42. It was agreed at the hearing that the Council cannot demonstrate a 5-year supply of deliverable housing sites and that the likely figure is below 4-years supply. This indicates a considerable shortfall in supply and is a matter which I shall consider further in the overall planning balance.
43. The provision of two additional dwellings would contribute towards the national objective set out in paragraph 60 of the Framework to significantly boost the supply of homes. It carries added importance in view of the considerable shortfall in local supply. Even so, the degree of benefit accruing from two houses would ultimately be relatively small, which tempers the weight it attracts. In addition, some limited economic benefit would flow from the construction of the dwellings, and the environment would benefit from biodiversity net gain and the removal of the existing fence. I also attribute minor positive weight to a likely reduction in recurrent anti-social behaviour at the access point into the site owing to increased surveillance. Cumulatively I attribute these benefits moderate positive weight.

Other Matters

SPA

44. The appeal site is located within the zone of influence for the SPA, a habitat recognised under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations) as being of international importance for rare and vulnerable species of birds. Caselaw requires the decision maker, when considering the effect that a proposal may have on such a European Site, to consider mitigation within an appropriate assessment rather than at screening stage.
45. In the absence of mitigation measures and using a precautionary approach, given the proximity to the SPA it is reasonable to suppose that future residents of the development would potentially visit the SPA for recreational purposes and dog-walking. Intensification of such activities would be likely to cause disturbance to the birds and their habitat. There is a consensus that there is a risk of a significant effect on the internationally important interest features of the SPA arising from the development.
46. Several policies in the development plan seek to ensure that development will only be permitted where it would not lead to an adverse effect upon the integrity of the SPA. Furthermore, the Thames Basin Heaths Special

Protection Area Avoidance Strategy Review 2016, updated in 2024 contains the Council's approach to mitigating the adverse effects of new housing development through two main avoidance measures, namely the provision of SANG and SAMM.

47. The signed and dated UU contains planning obligations that secure financial contributions towards these mitigation measures in line with the adopted avoidance strategy. As such, the proposal would accord with the established mitigation framework, and I am satisfied that the obligations meet the 3 tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended).
48. In the absence of other significant concerns, it would have been necessary to consult Natural England under Regulation 63(3) of the Habitat Regulations and complete an appropriate assessment. However, given the harm found in relation to the first main issue, I consider this would be unnecessary as it would not be determinative to the overall balance. Therefore, I have treated this matter as a neutral factor in the overall planning balance.

Planning Balance and Conclusion

49. Footnote 8 of the Framework confirms that paragraph 11d) is engaged in circumstances where the local planning authority cannot demonstrate a five year supply of deliverable housing sites. The presumption in favour of sustainable development means that planning permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development, or (ii) that any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
50. Having undertaken the heritage balance under paragraph 208 of the Framework, I have found the proposal would result in unjustified harm to designated heritage assets. Footnote 7 to paragraph 11 of the Framework confirms that this amounts to a clear reason for refusing the development proposed for the purposes of paragraph 11d)(i). As such, paragraph 11d)(ii) does not apply. The completion of a positive appropriate assessment under the Habitat Regulations would not have made a difference in this regard.
51. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise². I have found the proposal would conflict with policies of the development plan which seek to protect the quality of the historic and natural environment. Consequently, the proposals would be contrary to the development plan as a whole.
52. Having regard to the other considerations, including the provisions of the Framework, I do not consider there are any which individually or cumulatively indicate that a decision should be made other than in accordance with the development plan.

² Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

53. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Michael de Courcy, de Courcy Town Planning Limited – Planning Agent

Mr Shantanu Subramaniam, Fuller Long - Heritage Consultant

Mrs Virginia Gillece, Fuller Long – Heritage Consultant

Mr John Mitchell – Appellant

Mrs Nicola Mitchell – Wife of Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Alistair de Joux, Principal Planning Officer, Waverley Borough Council

Miss Sophie Piper, Principal Conservation Officer, Waverley Borough Council

Mr William Allwood, Chartered Town Planner & Team Leader, Waverley Borough Council

DOCUMENTS SUBMITTED AT THE HEARING

BY THE APPELLANT:

- a) Location Plan Rev 1
- b) Drawing number GP/01/21 Rev F, Plot 2: Proposed floor plans and elevations.
- c) Drawing number GP/05/22 Rev D, Proposed block plan.
- d) Section 106 agreement dated 14.10.24.

BY THE LOCAL PLANNING AUTHORITY:

- a) Extract from 'Procedural Guide: Planning appeals- England', Section 16.
- b) HM Land Registry, Current title plan for title number SY781618.